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Attorneys for Defendants Sgt. T. Curtin
Officer G. Pon, Officer J. Luna,
Officer K. DeBlasi, and Sgt. J. Louis

SUPERIOR COURTS OF ALAMEDA COUNTY, CALIFORNIA

RENE C. DAVIDSON COUNTY COURTHOUSE

**FRANK CISNEROS; BEATRICE
CISNEROS; KASI CISNEROS,**

Plaintiffs,

v.

**SERGEANT T. CURTIN, DETECTIVE G.
PON, OFFICER J. LUNA, OFFICER K.
DEBLASI, OFFICER J. LOUIS, OFFICER
R. ONCIANO, and DOES 1 through 50,**

Defendants.

NO. RG 07 321085

**ANSWER OF DEFENDANTS SGT. T.
CURTIN, OFFICER G. PON, OFFICER J.
LUNA, OFFICER K. DEBLASI AND
SGT. J. LOUIS TO PLAINTIFFS'
UNVERIFIED COMPLAINT**

Defendants Sgt. T. Curtin, Officer G. Pon (sued herein as Detective G. Pon), Officer J. Luna, Officer K. DeBlasi, and Sgt. J. Louis (sued herein as Officer J. Louis) answer plaintiffs' unverified Complaint by generally denying each and every allegation contained therein pursuant to California Code of Civil Procedure Section 431.30.

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' Complaint, and each cause of action therein, fail to state sufficient facts to constitute a cause of action.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs were negligent, reckless and careless in and about the matters alleged in the Complaint, and such negligence, recklessness and carelessness was the sole and/or contributing proximate cause of the injuries and damages, if any there were. Therefore, plaintiffs are either

1 barred from any recovery, or any recovery awarded must be reduced in proportion to the amount
2 that plaintiffs' conduct contributed to the alleged damages.

3 **THIRD AFFIRMATIVE DEFENSE**

4 Plaintiffs' injuries and damages, if any there were, were not caused by any improper act
5 by defendant, but by other persons beyond the control of this answering defendant.

6 **FOURTH AFFIRMATIVE DEFENSE**

7 Defendants' actions were privileged under applicable statutes and case law.

8 **FIFTH AFFIRMATIVE DEFENSE**

9 Plaintiffs' state law claims barred by California Government Code sections 815, 815.2,
10 818, 818.8, 820.2, 820.4, 820.6, 820.8, 821.6, 822.2, 845.2, 845.4, 845.6, and California Penal
11 Code sections 834a, 835, 835a, and 847.

12 **SIXTH AFFIRMATIVE DEFENSE**

13 Defendants' actions were undertaken with the reasonable belief that said actions were
14 valid and constitutionally proper, and that therefore, defendants' are entitled to immunity.

15 **SEVENTH AFFIRMATIVE DEFENSE**

16 Plaintiffs failed to mitigate their damages, if any there were.

17 **EIGHT AFFIRMATIVE DEFENSE**

18 The statute of limitations under Government Code section 945.6(a) (1) and Code of Civil
19 Procedure section 342 bars plaintiffs' state law claims.

20 WHEREFORE, defendants pray that:

- 21 1. the Court give judgment for defendants;
22 2. the Court award defendants costs of suit herein incurred;
23 3. that plaintiffs take nothing by their Complaint; and
24 4. for such other and further relief as the Court may deem proper.

25 Dated: May 29, 2007

MANUELA ALBUQUERQUE, City Attorney
MATTHEW J. OREBIC, Deputy City Attorney

26
27 By:

/s/

MATTHEW J. OREBIC, Attorneys for
Defendants Sgt. T. Curtin, Officer G. Pon, Officer
28 J. Luna, Officer K. DeBlasi, and Sgt. J. Louis